

### § 3.102

### 9 CFR Ch. I (1–1–03 Edition)

spoilage (harmful microbial growth), and vermin or other contamination. Refrigerators and freezers (or chilled and/or iced coolers for under 12 hours) must be used for perishable food. No substances that are known to be or may be toxic or harmful to marine mammals may be stored or maintained in the marine mammal food storage or preparation areas, except that cleaning agents may be kept in secured cabinets designed and located to prevent food contamination. Food, supplements, and medications may not be used beyond commonly accepted shelf life or date listed on the label.

(e) *Waste disposal.* Provision must be made for the removal and disposal of animal and food wastes, dead animals, trash, and debris. Disposal facilities must be provided and operated in a manner that will minimize odors and the risk of vermin infestation and disease hazards. All waste disposal procedures must comply with all applicable Federal, State, and local laws pertaining to pollution control, protection of the environment, and public health.

(f) *Employee washroom facilities.* Washroom facilities containing basins, sinks, and, as appropriate, showers, must be provided and conveniently located to maintain cleanliness among employees, attendants, and volunteers. These facilities must be cleaned and sanitized daily.

(g) *Enclosure or pool environmental enhancements.* Any nonfood objects provided for the entertainment or stimulation of marine mammals must be of sufficient size and strength to not be ingestible, readily breakable, or likely to cause injury to marine mammals, and be able to be cleaned, sanitized, and/or replaced effectively.

[66 FR 251, Jan. 3, 2001]

#### § 3.102 Facilities, indoor.

(a) *Ambient temperature.* The air and water temperatures in indoor facilities shall be sufficiently regulated by heating or cooling to protect the marine mammals from extremes of temperature, to provide for their good health and well-being and to prevent discomfort, in accordance with the currently accepted practices as cited in appropriate professional journals or reference guides, depending upon the spe-

cies housed therein. Rapid changes in air and water temperatures shall be avoided.

(b) *Ventilation.* Indoor housing facilities shall be ventilated by natural or artificial means to provide a flow of fresh air for the marine mammals and to minimize the accumulation of chlorine fumes, other gases, and objectionable odors. A vertical air space averaging at least 1.83 meters (6 feet) shall be maintained in all primary enclosures housing marine mammals, including pools of water.

(c) *Lighting.* Indoor housing facilities for marine mammals shall have ample lighting, by natural or artificial means, or both, of a quality, distribution, and duration which is appropriate for the species involved. Sufficient lighting must be available to provide uniformly distributed illumination which is adequate to permit routine inspections, observations, and cleaning of all parts of the primary enclosure including any den areas. The lighting shall be designed so as to prevent overexposure of the marine mammals contained therein to excessive illumination.<sup>7</sup>

[44 FR 36874, June 22, 1979; 63 FR 2, Jan. 2, 1998]

#### § 3.103 Facilities, outdoor.

(a) *Environmental temperatures.* Marine mammals shall not be housed in outdoor facilities unless the air and water temperature ranges which they may encounter during the period they are so housed do not adversely affect their health and comfort. A marine mammal shall not be introduced to an outdoor housing facility until it is acclimated to the air and water temperature ranges which it will encounter therein. The following requirements shall be applicable to all outdoor pools.

(1) The water surface of pools in outdoor primary enclosures housing polar bears and ice or cold water dwelling

<sup>7</sup>Lighting intensity and duration must be consistent with the general well-being and comfort of the animal involved. When possible, it should approximate the lighting conditions encountered by the animal in its natural environment. At no time shall the lighting be such that it will cause the animal discomfort or trauma.

species of pinnipeds shall be kept sufficiently free of solid ice to allow for entry and exit of the animals.

(2) The water surface of pools in outdoor primary enclosures housing cetaceans and sea otters shall be kept free of ice.

(3) No sirenian or warm water dwelling species of pinnipeds or cetaceans shall be housed in outdoor pools where water temperature cannot be maintained within the temperature range to meet their needs.

(b) *Shelter*. Natural or artificial shelter which is appropriate for the species concerned, when the local climatic conditions are taken into consideration, shall be provided for all marine mammals kept outdoors to afford them protection from the weather or from direct sunlight.

(c) *Perimeter fence*. On and after May 17, 2000, all outdoor housing facilities (i.e., facilities not entirely indoors) must be enclosed by a perimeter fence that is of sufficient height to keep animals and unauthorized persons out. Fences less than 8 feet high for polar bears or less than 6 feet high for other marine mammals must be approved in writing by the Administrator. The fence must be constructed so that it protects marine mammals by restricting animals and unauthorized persons from going through it or under it and having contact with the marine mammals, and so that it can function as a secondary containment system for the animals in the facility when appropriate. The fence must be of sufficient distance from the outside of the primary enclosure to prevent physical contact between animals inside the enclosure and animals or persons outside the perimeter fence. Such fences less than 3 feet in distance from the primary enclosure must be approved in writing by the Administrator. For natural seawater facilities, such as lagoons, the perimeter fence must prevent access by animals and unauthorized persons to the natural seawater facility from the abutting land, and must encompass the land portion of the facility from one end of the natural seawater facility shoreline as defined by low tide to the other end of the natural seawater facility shoreline defined by

low tide. A perimeter fence is not required:

(1) Where the outside walls of the primary enclosure are made of sturdy, durable material, which may include certain types of concrete, wood, plastic, metal, or glass, and are high enough and constructed in a manner that restricts entry by animals and unauthorized persons and the Administrator gives written approval; or

(2) Where the outdoor housing facility is protected by an effective natural barrier that restricts the marine mammals to the facility and restricts entry by animals and unauthorized persons and the Administrator gives written approval; or

(3) Where appropriate alternative security measures are employed and the Administrator gives written approval; or

(4) For traveling facilities where appropriate alternative security measures are employed.

[44 FR 36874, June 22, 1979, as amended at 64 FR 56147, Oct. 18, 1999]

#### § 3.104 Space requirements.

(a) *General*. Marine mammals must be housed in primary enclosures that comply with the minimum space requirements prescribed by this part. These enclosures must be constructed and maintained so that the animals contained within are provided sufficient space, both horizontally and vertically, to be able to make normal postural and social adjustments with adequate freedom of movement, in or out of the water. (An exception to these requirements is provided in § 3.110(b) for isolation or separation for medical treatment and/or medical training.) Enclosures smaller than required by the standards may be temporarily used for nonmedical training, breeding, holding, and transfer purposes. If maintenance in such enclosures for nonmedical training, breeding, or holding is to last longer than 2 weeks, such extension must be justified in writing by the attending veterinarian on a weekly basis. If maintenance in such enclosures for transfer is to last longer than 1 week, such extension must be justified in writing by the attending veterinarian on a weekly basis. Any enclosure that does not